

MINUTES

December

December 1st – December 31st

Tuesday, December 1, 2009

Division One

A123368 – The People, v. Matthew Jorgenson.

After a full review of the record, we find no arguable issues and, therefore, affirm the judgment. Dondero, J., We Concur: Margulies, Acting P.J., Banke, J. (Not for Publication.)

Division Three

A122858 – State Farm Mutual Automobile Insurance Company, v. Department of Transportation.

The judgment is affirmed. Appellant shall bear costs on appeal. Jenkins, J., We Concur: Pollak, Acting P.J., Siggins, J. (Not for Publication.)

Division Four

A124463 – Michael Kaeser et al., v. Linda Luwig.

The judgment is affirmed. Respondents are entitled to recover their costs on appeal. Rivera, J., We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

Wednesday, December 2, 2009

Division One

A122811 – Malimos, v. Malibu Pier Partners.

The judgment is affirmed. Marchiano, P.J., We Concur: Margulies, J., Graham, J.¹ (Not for Publication.)

¹ Retired judge of the Superior Court of Marin County assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION ONE

Wednesday, December 2, 2009

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, Presiding Justice, Margulies, Justice, Dondero, Justice, Fred Abad, Deputy Clerk, and CHP Officer Ricky Franklin, Bailiff.

A121521 People,

v.

Manuel Mares.

Cause called and argued by Stephen Bedrick, counsel for appellant, and Aileen Bunney, counsel for respondent. Cause ordered submitted.

A123859 Parchester Village Neighborhood Council,

v.

City of Richmond, et al.

Cause called and argued by George Yuhas, counsel for appellants, and Stephan Volker, counsel for respondent. Cause ordered submitted.

A124883 Marianne Beck,

A125217 v.

Prana Eight Properties, LLC., et al.

Cause called and argued by Andrew Zacks, counsel for appellant Prana Eight

Properties, LLC, and Raquel Fox, counsel for respondent. Cause ordered submitted.

A122651 Adoption of N.G., et al., Minors.

R.R., et al.,

v.

J.R., et al.

Cause called and argued by Mary Williams, counsel for appellant R.G., Seth Gorman, counsel for appellant J.R., and James Fishel, counsel for respondent.

Cause ordered submitted.

Court recessed until 1:30 p.m.

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION ONE

Wednesday, December 2, 2009

The Court reconvened at 1:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Margulies, Acting Presiding Justice, Dondero, Justice, Banke, Justice, Fred Abad, Deputy Clerk, and CHP Officer James Militar, Bailiff.

A121769 People,

v.

Robert Goodlow.

Cause called and argued by Gabriel Bassan, counsel for appellant, and Christopher Grove, counsel for respondent. Cause ordered submitted.

A123081 Insurance Commissioner of the State of California,

v.

Golden Eagle Insurance.

Cause called and argued by David Birka-White, counsel for appellant, Cynthia Larsen, counsel for respondent Insurance Commissioner of the State of California, and Richard Edwards, counsel for respondent Golden Eagle Insurance. Cause ordered submitted.

A124921 Hewlett,

v.

Steven Kremer.

Cause called and argued by Patricia Hewlett, appellant in propria persona, and Steven Kremer, respondent in propria persona. Cause ordered submitted.

Justice Marchiano joined the bench and presided over the remainder of the calendar. Justice Margulies remained on the bench. Panel for the next case on calendar, J. Marchiano, J. Dondero, and Justice Banke.

A124147 Eugene Schneider,

v.

James Kahn.

Cause called and argued by Eugene Schneider, appellant in propria persona, and Albert Lee, counsel for respondents. Cause ordered submitted.

Justice Dondero left the bench. Panel change: J. Marchiano, J. Margulies, and J. Banke.

Continued

A118301 Gene Marchi,

v.

Ali Mohyee.

Cause called and argued by Ali Mohyee, appellant in propria persona, and Daniel Conrad, counsel for respondent.

A122776 People

v.

C.A.

Cause called and argued by Michael Li, counsel for appellant, and Stephen Gallenson, counsel for respondent. Cause ordered submitted.

Court adjourned until January 2010.

Wednesday, December 2, 2009(Continued)

A122972 – Schellinger Brothers, v. City of Sebastopol.

The judgment is affirmed. Richman, J., We Concur: Kline, P.J., Haerle, J.
(Certified for Publication.)

Division Three

A120722 – The People, v. William Francis Ghazey.

The judgment is affirmed. Siggins, J., We Concur: McGuiness, P.J., Pollak, J.
(Not for Publication.)

Division Four

A125496 – Tarrant Bell Property, LLC et al., v. The Superior Court of Alameda County, Reynaldo Abaya et al.

A125714 – Spanish Ranch I, L.P., v. The Superior Court of Alameda County, Reynaldo Abaya et al., R.P.I.

The petitions are denied. The parties shall bear their own costs. Sepulveda, J., We Concur: Ruvolo, P.J., Rivera, J. (Certified for Publication.)

Thursday, December 3, 2009

Division One

A124279 – In re M.P., a Person Coming Under the Juvenile Court Law. Sonoma County Human Services Department, v. M.M.

The order terminating parental rights is affirmed. Marchiano, P.J., We Concur: Margulies, J., Banke, J. (Not for Publication.)

Division Five

A122630 – David Paland, v. Brooktrails Township Community Services District Board of Directors.

The judgment is affirmed. Paland shall pay the District's costs on appeal. Bruiniers, J., We Concur: Simons, Acting P.J., Needham, J. (Certified for Publication.)

Friday, December 4, 2009

Division One

A119521 – Margaret A Seltzer, v. William Gwire.

By The Court: The petition for rehearing is denied. Marchiano, P.J.

Division Two

A124488 – In re Stephen Duane Chiara, on habeas corpus.

We reverse and remand for a new trial. Haerle, J., We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Division Four

A126338 – I.C., v. The Superior Court of Contra Costa County, Contra Costa County Bureau of Children & Family Services, R.P.I.

The petition for an extraordinary writ is denied on the merits. (§ 366.26, subd. (I).) Our decision is final in this court immediately in the interests of justice. Rivera, J., We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

Division Five

A119529 – Sharon Rodrigues, v. Bayer Corporation et al.

The judgment is affirmed. Respondents are to recover costs on appeal. Bruiniers, J., We Concur: Jones, P.J., Needham, J. (Not for Publication.)

Monday, December 7, 2009

Division Five

A123730 – Christopher S. Hall., v. Bennie J. Lewis.

The judgment is reversed. The superior court is directed to enter a new judgment in favor of defendant Lewis, and, upon proper application, to award reasonable costs to Lewis as the prevailing party. Costs on appeal are awarded to Lewis. Needham, J., We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Tuesday, December 8, 2009

Division One

A124052 – Gloria L. Dodd, v. State of California Veterinary Medical Board.

The judgment is affirmed. Marchiano, P.J., We Concur: Dondero, J., Banke, J. (Not for Publication.)

A122227 – The People, v. Ronald Nathaniel Hurtado.

The judgment is modified to (1) stay the concurrent sentence on count 3 and associated enhancement allegations, and (2) give defendant 951 days of presentence custody credit and 142 days of presentence conduct credit. In all other respects, the judgment is affirmed. The superior court is directed to prepare an amended abstract of judgment and to transmit a copy of the amended abstract to the Department of Corrections and Rehabilitation. Margulies, J., We Concur: Marchiano, P.J., Dondero, J. (Not for Publication.)

Division Two

A122018 – Robert Sprague, v. Curtis Kekoa, Jr.

The judgment is affirmed. Costs on appeal are awarded to Sprague. As sanctions for bringing and unnecessarily prolonging this frivolous appeal Kekoa and George shall pay Sprague \$10,000; Kekoa shall pay 75 percent of that amount, or \$7,500, and George shall pay 25 percent of that amount, or \$2,500. As additional sanctions for bringing and unnecessarily prolonging this frivolous appeal, Kekoa and George shall pay this court \$25,500 to compensate it for costs incurred in processing this frivolous appeal; Kekoa shall pay 75 percent of that amount, or \$19,125, and George shall pay 25 percent of that amount, or \$6,375. Curtis Kekoa, Jr. is a vexatious litigant and as such is prohibited from filing any new litigation in which he is a party in the courts of California without approval of the presiding judge of the court in which he

proposes to file it, whether such litigation is filed by Kekoa in propria persona or through an attorney. All payments due Sprague and the court must be made in full no later than 10 days after the remittitur is filed herein. Payments due the court must be sent to the Clerk/Administrator of the Court of Appeal. This opinion constitutes a written statement of our reasons for imposing sanctions. (*Bach v. County of Butte* (1989) 215 Cal.App.3d 294, 313.) Pursuant to section 6086.7, subdivision (a)(3), of the Business and Professions Code, upon the issuance of the remittitur, the Clerk/Administrator is directed to send a copy of this opinion to the State Bar of California. Pursuant to Code of Civil Procedure section 391.7, subdivision (e), upon the issuance of the remittitur, the Clerk/Administrator of the Court of Appeal is directed to send a copy of this opinion and a conforming Judicial Council MC-700 form to the Judicial Council. Kline, P.J., We Concur: Haerle, J., Lambden, J. (Not for Publication.)

Tuesday, December 8, 2009(Continued)

Division Four

A124424 – M.P. Mountanos, Inc., v. DCA II, LLC et al.

The trial court properly ruled that the proffered extrinsic evidence should not be allowed to interpret the purchase agreement and correctly concluded that MPM's fraud in the inducement claim is barred by the parol evidence rule. Accordingly, the judgment is affirmed. Readon, J., We Concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication.)

A122942 – The People, v. Derek H. Taylor et al.

The judgments against both appellants are affirmed. Ruvolo, P.J., We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR
Tuesday, December 08, 2009

The Court convened at 9:30 a.m. in its courtroom located at 350 McAllister St., San Francisco, California. Present: Ruvolo, P. J., Reardon, J., and Rivera, J.; Channing Hoo, Deputy Clerk; CHP Officer Bobby Singh, Bailiff.

A116248 Marvin C. Weinstat et al.

v.

Dentsply International, Inc.

Cause called. Paul Nelson argued for appellants Weinstat et al. John Taylor argued for respondent. Cause submitted.

At this point, the court reconstituted itself to include Ruvolo, P. J., Sepulveda, J., and Rivera, J.

A121317 Taylor Korobow

v.

Douglas Ross Construction et al.

Cause called. William Gutierrez argued for appellant Korobow. Jennifer Becker argued for respondents. Cause submitted.

A123006 Les Jankey et al.

v.

Song Koo Lee

Cause called. Thomas E. Frankovich argued for appellants Jankey et al. Jason G. Gong argued for respondent. Cause submitted.

Court recessed at 11:02 a.m.

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR
Tuesday, December 8, 2009

The Court reconvened at 1:30 p.m. in its courtroom located at 350 McAllister St., San Francisco, California. Present: Ruvolo, P.J., Reardon, J., and Sepulveda, J. Annie Reasoner, Deputy Clerk; CHP Officer Harjit Singh, Bailiff.

A124227 People of the State of California
v.
Hersey Lee Leiland

Cause called. Lindy Hayes argued for appellant Leiland. Deputy Attorney General Bridget Billeter argued for respondent People. Cause submitted.

A124903 Tina Silvia
v.
James Tong, et al

Cause called. Pro per appellant Silvia argued on her own behalf. Selena Ontiveros argued for respondent Tong. Cause submitted.

A123989 California Correctional Peace Officers Association
v.

Tim Virga, et al

Cause called. Richard Rahm argued for appellant Virga. Laurie Hepler argued for respondent CCPOA. Cause submitted.

Court was adjourned at 2:17 p.m.

Tuesday, December 8, 2009(Continued)

Division Five

A123858 – Estate of Normida Serquina, Deceased. Sergundo Serquina, as Administrator, et al., v. Michael Moncur, et al.

The judgment is affirmed. Defendants are awarded their costs on appeal. Jones, P.J., We Concur: Simons, J., Bruiniers, J. (Not for Publication.)

A124250 – In re Tony K., a Person Coming Under the Juvenile Court Law. The People, v. Tony K.

The judgment is affirmed. Jones, P.J., We Concur: Simons, J., Bruiniers, J. (Not for Publication.)

Wednesday, December 9, 2009

Division One

A119049 – Margaret A Seltzer, v. William Gwire.

By The Court: The petition for rehearing is denied. Marchiano, P.J.

A124921 – Estate of Vivian Barrett, Deceased. Patricia Hewlett, v. Steven Kremer, as Administrator, etc.

The judgment is affirmed. Banke, J., We Concur: Margulies, Acting P.J., Dondero, J. (Not for Publication.)

Division Two

A123426 – The People, v. Anthony Wayne Myers.

We affirm the judgment, except that we hereby order the trial court to modify the abstract of judgment consistent with this opinion. Lambden, J., We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Wednesday, December 9, 2009

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: McGuiness, P.J., Pollak, J. and Jenkins, J.; and B. Robbins, Deputy Clerk.

A117148 Fredy Alarcon,

A118566 v.

Fireside Bank.

Cause called and argued by Jan T. Chilton, counsel for appellant/cross-respondent, and Martin S. Putnum, counsel for respondent/cross-appellant. Cause ordered submitted.

A122433 In re the Marriage of Behrendt and Pitto.

J. Russell Pitto,

v.

Valerie Behrendt.

Cause called and argued by Dane J. Durham, counsel for appellant, and Richard Sherman, counsel for respondent. Cause ordered submitted, conditionally, with the understanding that submission would be vacated if the decision utilized cases brought up during argument, and would be re-submitted after respondent had an opportunity to respond.

At this point in the proceedings, Justice Jenkins left the bench and Justice Siggins joined the bench.

A124157 The People,

v.

Damon Anthony Tyler.

Cause called and argued by William Locke, counsel for appellant, and Sharon G. Birenbaum, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Presiding Justice McGuinness left the bench. Justice Jenkins re-joined the bench and Justice Pollak presided over the remainder of the morning session.

A121964 John Thompson,

A121965 v.

A122491 Deborah Medeiros.

Cause called and argued by Andrew Zabronsky, counsel for appellant, and Kristofer W. Biorn, counsel for respondent. Cause ordered submitted.

Court adjourned.

Wednesday, December 9, 2009(Continued)

Division Four

A122557 – The People, v. Chris Emory.

The judgment is affirmed. Sepulveda, J., We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

Division Five

A125128 – The People, v. Kimberly Gutierrez.

The judgment is affirmed. Bruiniers, J., We Concur: Jones, P.J., Simons, J. (Not for Publication.)

A121347 – Shelley Parks, v. James Parks.

The matter is remanded to the trial court for purposes of a limited retrial on Shelley's claim for reimbursement to the community for USPS pension payments received by James between the date of separation and date of division of the asset, and for correction of a clerical error in the judgment to assign a stipulated value of \$1,500 to the 1980 GMC truck awarded to James and a corresponding offset to Shelley. The judgment is otherwise affirmed. Each party will pay his/her own fees and costs. Bruiniers, J., We Concur: Simons, Acting P.J., Needham, J. (Not for Publication.)

Thursday, December 10, 2009

Division Two

A122801 – In re Andrew C., a Person Coming Under the Juvenile Court Law. The People, v. Andrew C.

The dispositional order committing Andrew to the DJF and imposing the aggravated term as the maximum time of confinement on the robbery charge is affirmed. Richman, J., We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Division Four

A125326 – The People, v. Raymond Lee Hayden.

The judgment is affirmed. Ruvolo, P.J., We Concur: Sepulveda, J., Rivera, J.
(Not for Publication.)

Thursday, December 10, 2009(Continued)

Division Five

**A126339 – In re D. W., a Person Coming Under the Juvenile Court Law.
Delano W., v. The Superior Court of Humboldt County, Humboldt County
Department of Health and Human Services, R.P.I.**

The juvenile court's orders are affirmed. Simons, J., We Concur: Jones, P.J.,
Needham, J. (Not for Publication.)

A122212 – The People, v. Charles Joseph Carter.

The judgment is affirmed. Simons, J., We Concur: Jones, P.J., Bruiniers, J. (Not
for Publication.)

Friday, December 11, 2009

Division Three

A123195 – The People, v. Jesus Warith Jihad.

The section 12022, subdivision (b) enhancements are stricken. The judgment is
affirmed in all other respects. The case is remanded solely for the trial court to amend
the abstract of judgment to remove the sentencing enhancements imposed pursuant to
section 12022. Jenkins, J., We Concur: McGuiness, P.J., Pollak, J. (Not for
Publication.)

Division Four

A124903 – Tina Silvia, v. James Tong et al.

The order granting attorney fees is affirmed. Respondents shall recover their
costs on appeal. Sepulveda, J., We Concur: Reardon, Acting P.J., Rivera, J. (Not for
Publication.)

Division Five

A125870 – The People, v. Vincent Rosenbalm.

The judgment is affirmed. Needham, J., We Concur: Jones, P.J., Simons, J.
(Not for Publication.)

Monday, December 14, 2009

Division Five

A123317 – Citizens for Civic Accountability, v. Town of Danville, Davidon Homes, R.P.I.

Plaintiff is entitled to costs on appeal. Simons, J., We Concur: Jones, P.J.,
Needham, J. (Not for Publication.)

Tuesday, December 15, 2009

Division One

A122169 – David Stier, v. The People.

Accordingly, the judgment is affirmed. Dondero, J., We Concur: Marchiano, P.J.,
Margulies, J. (Not for Publication.)

A123693 – In re A.O., a Person Coming Under the Juvenile Court Law. Sonoma County Human Services Department, v. A.O., et al.

The order denying the parents' modification petitions and the judgment terminating their parental rights are affirmed. Margulies, J., We Concur: Marchiano, P.J., Banke, J. (Not for Publication.)

A124889 – 1 (800)Reminds, Inc., v. Prosodie Interactive (Canada), Inc.

The dismissal order is affirmed. Dondero, J., We Concur: Margulies, Acting P.J.,
Banke, J. (Not for Publication.)

Division Two

A124482 – The People, v. Roy Mills Cupis.

The trial court's order is affirmed in its entirety. Lambden, J., We Concur: Kline, P.J., Richman, J. (Not for Publication.)

Division Three

A123161 – The People, v. Damon Anthony Tyler.

The judgment is affirmed. Pollak, J., We Concur: McGuinness, P.J., Siggins, J. (Not for Publication.)

Tuesday, December 15, 2009(Continued)

A125109 – In re A.M., a Person Coming Under the Juvenile Court Law. The People, v. A.M.

The juvenile court's order of May 29, 2009, is affirmed. Jenkins, J., We Concur: Pollak, Acting P.J., Siggins, J. (Not for Publication.)

A121964, A121965, A122491 – John Thompson, v. Deborah Medeiros.

The orders granting Thompson's safe-harbor petitions are affirmed. Thompson is to recover his costs on appeal. Pollak, Acting P.J., We Concur: Siggins, J., Jenkins, J. (Not for Publication.)

Division Four

A123399 – In re Q.M., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency, v. Brian B., Johanna M. et al.

The order from which this appeal was taken is affirmed. Ruvalo, P.J., We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Thursday, December 17, 2009

Division One

A124189 – John W. Mindermann, v. S.F. Police Credit Union.

Accordingly, the judgment is affirmed. Costs on appeal are awarded to defendant. Dondero, J., We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

A124493 – In re E.S., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency, v. Z.S., E.S.

The order appealed from is affirmed. Haerle, J., We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A125054 – In re J.J., a Person Coming Under the Juvenile Court Law. The People, v. J.J.

The judgment is affirmed. Haerle, Acting P.J., We Concur: Lambden, J., Richman, J. (Not for Publication.)

Thursday, December 17, 2009(Continued)

A121509 – The People, v. Steven Houston.

The judgment is affirmed. Kline, P.J., We Concur: Haerle, J., Lambden, J. (Not for Publication.)

A125044 – The People, v. Julian Tamayo.

The judgment is affirmed. Lambden, J., We Concur: Kline, P.J., Richman, J. (Not for Publication.)

Division Three

A122394 – The People, v. Monterrio Davis.

The judgment is affirmed. Pollak, Acting P.J., We Concur: Siggins, J., Jenkins, J. (Not for Publication.)

A120292 – The People, v. Michael Edward Boutta.

The judgment is affirmed. McGuiness, P.J., We Concur: Siggins, J., Jenkins, J.
(Not for Publication.)

A122433 – In re the Marriage of J. Russell Pitto and Valerie Behrendt.

Appeal from the trial court's denial of wife's motions for reconsideration is dismissed for lack of jurisdiction. The trial court's sanctions orders are affirmed. The trial court is directed to reduce the sanctions imposed under Family Code section 271 by \$1,350 to a total of \$1,687. Wife shall bear costs on appeal. Jenkins, J., We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

Division Four

A125129 – Raymond D. Jackson, Sr., v. California Department of Corrections and Rehabilitation et al.

The judgment of dismissal is affirmed. Reardon, J., We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

A124361 – The People, v. Kenneth George Torres.

Judgment is affirmed. Reardon, J., We Concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication.)

Thursday, December 17, 2009(Continued)

Division Five

A122744 – The People, v. Gregory A. Moss.

The judgment is affirmed. Needham, J., We Concur: Simons, Acting P.J., Bruiniers, J. (Not for Publication.)

A123721 – Robert Wright et al., v. Santa Rosa Memorial Hospital et al.

The judgment is affirmed. Hospital is to recover costs on appeal. Bruiniers, J., We Concur: Jones, P.J., Needham, J. (Not for Publication.)

**A124837 – In re S.P., a Person Coming Under the Juvenile Court law.
Contra Costa County Children and Family Services, v. Ronald P.**

The order is affirmed. Needham, J., We Concur: Jones, P.J., Bruiniers, J. (Not for Publication.)

MINUTES
COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FIVE

Thursday, December 17, 2009

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J., Simons, J., Needham, Jr., J., Bruiniers, J., and Joshua Chow, Deputy Clerk.

A122128 Omid Beheshti,
 v.
 Daniel Bartley,
Cause called and argued by Omid Beheshti, appellant, and by Karen Stromeyer, counsel for respondent. Cause ordered submitted.

A123914 San Francisco Unified School District et al.,
 v.
 Laidlaw Transit et al.,
Cause called and argued by Thomas Sims, counsel for appellant, and by Raymond Cardozo, counsel for respondent. Cause ordered submitted.

At this point in the proceedings Justice Simons left the bench and Justice Bruiniers entered.

A124154 Woodland Park Management,
 v.
 City of East Palo Alto,
Cause called and argued by Andrea J. Saltzman, counsel for appellant, and by Christine Wade Griffith, counsel for respondent. Cause ordered submitted.

At this point in the proceedings Justice Needham left the bench and Justice Simons entered.

A124374 Donald L. Junkin,
 v.
 Golden West Foreclosure Service,
 Gary Bennett,
Cause called and argued by David McKim, counsel for appellant, and by Norman Bahlert and Jonathan Chance, counsel for respondents. Cause ordered submitted.

A123589 The People,
 v.
 Kalolo Tausing,
Cause called and argued by David Annicchiarico, counsel for appellant, and by Lawrence K. Sullivan, counsel for respondent. Cause ordered submitted.

At this point in the proceedings Justice Jones left the bench and Justice Needham entered.

A122975 Vanguard Car Rental USA Inc.,
v.
County of San Mateo,
Cause called and argued by Paul VanLoon, counsel for appellant, and by Lee Andrew Thompson, counsel for respondent. Cause ordered submitted.

A117264 Tolibas Construction Inc.,
v.
Garry Wang et al.,
Cause called and argued by David McKim, counsel for appellant and cross-respondent, and by Jeffrey Baruh, counsel for respondent and cross-appellant. Cause ordered submitted.

Court adjourned at 12:24 p.m.

Friday, December 18, 2009

Division One

A123128 – The People, v. Mariko M. Nash.

Accordingly, the judgment is affirmed. Dondero, J., We Concur: Marchiano, P.J., Banke, J. (Not for Publication.)

A124631 – In re N.A., a Person Coming Under the Juvenile Court Law. Contra Costa County Children and Family Services Bureau, v. C.A.

The order terminating Mother's parental rights is affirmed. Margulies, J., We Concur: Marchiano, P.J., Banke, J. (Not for Publication.)

A122413 – The People, v. Shawn Patrick Carrigg.

The probation conditions from which defendant has appealed are modified to read as follows: (1) "You will not contact persons you know or should know are minors by any means, including but not limited to the Internet or telephone, . . .except as approved by the probation officer"; (2) "You're to have no contact with any persons you know or should know are under the age of 18 unless specifically authorized by the probation officer"; (3) "You're not to frequent or visit places that you know or should know exist primarily for the use of minors, i.e., schools, circuses, playgrounds, arcades, toy stores, amusement parks, zoos, et cetera"; (4) "You may not reside within 200 yards of any school, playground, or facility that you know or should know is frequented primarily by children, and your residence must be approved by your probation officer as being complaint with this requirement"; and (5) "You're not to reside with any other person you know or should know is a convicted sex offender." AS so modified, the judgment is affirmed. Margulies, J., We Concur: Marchiano, P.J., Banke, J. (Not for Publication.)

Division Two

A120395 – The People, v. Mark Lucky Edwards.

Defendant's conviction and sentence are affirmed. Lambden, J., We Concur: Kline, P.J., Richman, J. (Not for Publication.)

Division Three

A122225 – The People, v. Russell Elijah Edwards.

The matter is remanded for correction of the sentence as set forth above. In all other respects the judgment is affirmed. Pollak, J., We Concur: McGuiness, P.J., Siggins, J. (Not for Publication.)

Friday, December 18, 2009(Continued)

Division Four

A125878 – The People, v. Augustine Lara.

The judgment is affirmed. Ruvolo, P.J., We Concur: Reardon, J., Rivera, J. (Not for Publication.)

A121349 – Miguel Suarez et al., v. Pacific Northstar Mechanical, Inc.

The judgment is reversed, and the case is remanded to the trial court for further proceedings consistent with this opinion. Appellants are awarded their costs on appeal. Ruvolo, P.J., We Concur: Reardon, J., Rivera, J. (Certified for Publication.)

Monday, December 21, 2009

Division One

A123880 – In re Tracy Taylor on Habeas Corpus.

The order is reversed. Dondero, J. We Concur: Marchiano, P.J., Banke, J. (Not for Publication.)

A122829 – The People, v. Charles B. Faultry.

The erroneous denial of a timely motion for self-representation is a structural error of constitutional magnitude that is subject to the rule of per se reversal. (*People v. Jones* (1998) 66 Cal.App.4th 760, 770; *People v. Sohrab, supra*, 59 Cal.App.4th 89, 99; *People v. Robinson* (1997) 56 Cal.App.4th 363, 373; *People v. Nicholson, supra*, 24 Cal.App.4th 584, 594.) Accordingly, we must reverse the judgment in its entirety and remand the case to the trial court to conduct further proceedings not inconsistent with the views expressed herein. (*People v. Butler, supra*, ___ Cal.4th ___ [2009 Cal. Lexis 12407, *30]; *People v. Nauton* (1994) 29 Cal.App.4th 976, 981.)² Dondero, J., I Concur: Margulies, J. (See Concurring Opinion by Marchiano, J.) (Not for Publication.)

² In light of our conclusion we need not address defendant's contention that jury misconduct was committed.

A123985 – The People, v. Michael Anthony Jones.

The judgment is affirmed. Banke, J., We Concur: Marchiano, P.J., Margulies, J.
(Not for Publication.)

A123985 – The People, v. Michael Anthony Jones.

Monday, December 21, 2009(Continued)

The judgment is affirmed. Banke, J., We Concur: Marchiano, P.J., Margulies, J.
(Not for Publication.)

A124363 – The People, v. Darin Timothy Dawson.

The judgment is affirmed. Banke, J., We Concur: Marchiano, P.J., Dondero, J.
(Not for Publication.)

Division Three

A124902 – Darnice Linton, v. Dorris Murray et al.

The judgment is affirmed. Pollak, J., We Concur: McGuiness, P.J., Jenkins, J.
(Not for Publication.)

A126345 – Kimberly Williams, v. Union Pacific Railroad Company.

The request for stipulated reversal of the judgment is denied. The designation of the record on appeal shall be filed within 15 days of this order. 9See cal. Rules of Court, rule 8.121.) Siggins, J., We Concur: McGuiness, P.J., Jenkins, J. (Not for Publication.)

A126318 – T.M., v. The Superior Court of Alameda County, Alameda County Social Services Agency et al., R.P.I.

The order to show cause is discharged, and the petition for extraordinary writ is denied on the merits. (§ 366.26, subd. (f); Cal. Rules of Court, rule 8.452(i); see *In re Julie S.* (1996) 48 Cal.App.4th 988, 990-991.) Our decision is final immediately. (Cal. Rules of Court, rule 8.264(b).) Siggins, J., We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

A124564 – The People, v. Lyle Frances Behag.

The judgment is affirmed. Siggins, J., We Concur: Pollak, Acting P.J., Jenkins, J.
(Not for Publication.)

Division Four

A124227 – The People, v. Hersey Lee Lelaind.

The judgment is affirmed. Sepulveda, J., We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

A114813 – A.F. Evans Company, Inc., et al., v. Doheny - Vidovich Partners et al.

Monday, December 21, 2009(Continued)

The judgment is affirmed. The parties are to bear their own costs on appeal. Rivera, J., We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Division Five

A121994 – The People, v. Raul Carreto – Vasquez.

The judgment is affirmed. Jones, P.J., We Concur: Needham, J., Bruiniers, J. (Not for Publication.)

Tuesday, December 22, 2009

Division One

A124147 – Estate of Henry Kahn, Deceased. Eugene Schneider, v. James Kahn et al.

The order enforcing the settlement agreement is affirmed. Banke, J., We Concur: Marchiano, P.J., Dondero, J. (Not for Publication.)

A124021 – In re R.S., a Person Coming Under the Juvenile Court Law. Del Norte County Department of Health & Social Services, v. M.T. et al.

By The Court: The petition for rehearing is denied. Marchiano, P.J.

A122321 – The People, v. Daniel Elizalde.

The judgment is affirmed. Banke, J., We Concur: Marchiano, P.J., Margulies, J.
(Not for Publication.)

Division Two

A119553, A120369, A122146 – City and County of San Francisco et al., v. Skyhawk Properties, Inc., et al.

A122533 – Yoshabel Clements, v. City and County of San Francisco et al.

These consolidated appeals (A119553, A120369, A122146, A122533) are dismissed as moot. Kline, P.J., We Concur: Haerle, J., Lambden, J. (Not for Publication.)

Tuesday, December 22, 2009(Continued)

Division Three

A126582 – In re D.C., a Person Coming Under the Juvenile Court Law. Darren C., SR. v. Superior Court of Del Norte County, Del Norte County Department of Health and Human Services, R.P.I.

The petition for extraordinary writ is denied. Jenkins, J., We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

A125228 – In re B.G., a Person Coming Under the Juvenile Court Law. The People, v. B.G.

The appeal is dismissed. Siggins, J., We Concur: McGuiness, P.J., Jenkins, J. (Not for Publication.)

A123844 – The People, v. Richard Jesus Valentine.

The judgment is affirmed. Pollak, J., We Concur: McGuiness, P.J., Siggins, J. (Not for Publication.)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR

Tuesday, December 22, 2009

The court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, San Francisco, California. Present: Ruvolo, P.J., Sepulveda, J., and Rivera, J.; Annie Reasoner, Deputy Clerk; CHP Officer Tom Lipsey, Bailiff.

A122410 People of the State of California

v.

Fernando Edward Gamez

Cause called. William Locke argued for appellant Gamez. David Rose argued for respondent State of California. Cause submitted.

At this point, Ruvolo, P.J. left the bench and Reardon, Acting P.J., joined the bench. Argument continued before Reardon, Acting P.J., Sepulveda, J., and Rivera, J.

A123305 Patrick Helland

v.

Ray Bronner

Cause called. In pro per appellant Ray Bronner argued on his own behalf. Charles Collins argued for respondent Helland. Cause submitted.

Court was adjourned at 10:02 a.m.

Tuesday, December 22, 2009(Continued)

Division Five

A122567 – Union Pacific Railroad, v. City of American Canyon.

We affirm in part and reverse in part, modifying the trial court's June 2, 2008 order granting Union Pacific's petition for a writ of mandate. On remand, the trial court shall issue a writ of mandate requiring the City to prepare an environmental impact report on Phase III addressing the traffic impacts. Bruiniers, J., We Concur: Jones, P.J., Needham, J. (Not for Publication.)

Wednesday, December 23, 2009

Division One

A124791 – In re R.R., a Person Coming Under the Juvenile Court Law. San Francisco Department of Human Services Agency, v. J.R.

The jurisdictional and dispositional findings and orders are affirmed. Marchiano, P.J., We Concur: Margulies, J., Dondero, J. (Not for Publication.)

Division Two

A120327 – The People, v. Erdenechuluun Batochir.

The order of probation is affirmed. Richman, J., We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

A122152, A123850 – Satinder Garcha et al., v. Central Plaza – Union City, L.P.

The matter is remanded for consideration of the limited issue of what amount, if any, of attorney fees the Garchas should receive for their fee motion. In A122152, the judgment is affirmed. The Garchas shall recover their costs on this appeal. In A123850, the order is remanded for the limited purpose discussed in this opinion. The order is affirmed in all other respects. Pursuant to our authority under rule 8.278(a)(5) of the California Rules of Court, we direct that the parties shall bear their own costs on this appeal. Richman, J., We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Division Three

A125307 – Tangie Terrell, v. Dillingham & Murphy et al.

Wednesday, December 23, 2009(Continued)

The May 19, 2009 order awarding Tangie Terrell attorney fees is reversed. Defendants are to recover their costs on appeal. Pollak, J., We Concur: McGuiness, P.J., Siggins, J. (Not for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Wednesday, December 23, 2009

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: McGuiness, P.J., Siggins, J. and Jenkins, J.; and F. Castuera, Deputy Clerk.

A121255 The People,

v.

David Busio Lopez.

Cause called and argued by David Nick, counsel for appellant, and John Deist, counsel for respondent. Cause ordered submitted.

A121367 The People,

v.

Eric Scott et al.

Cause called and argued by Mark Greenberg, counsel for appellant, and Allan Yannow, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Presiding Justice McGuiness left the bench and Justice Pollak joined the bench, and presided the last case.

A123672 Richmond Residents for Responsible Antenna Placement et al.,

v.

Gerald Feagley et al.

Cause called and argued by Stephan Volker, counsel for appellant, Martin Fineman,

counsel for real party in interest Omnipoint Communications, and Kathleen McKinley, counsel for respondent/real parties in interest Gerald Feagley et al. Cause ordered submitted.

ADJOURNED

Wednesday, December 23, 2009(Continued)

Division Four

**A124548 – In re J.Z., a Person Coming Under the Juvenile Court Law.
Alameda County Social Services Agency, v. C.W. et al., J.Z.**

The juvenile court's order is affirmed. Sepulveda, J., We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

Division Five

A124591 – In re A.G., a Person Coming Under the Juvenile Court Law. The People, v. A.G.

The order is affirmed. Simons, J., We Concur: Jones, P.J., Bruiniers, J. (Not for Publication.)

A124023 – Estate of Emitt B. Jackson, Deceased. Eugene Schneider, v. Patricia Alice Jackson et al.

The order is affirmed. Respondents' motion for sanctions is denied. Respondents are entitled to their costs on appeal. Jones, P.J., We Concur: Needham, J., Bruiniers, J. (Not for Publication.)

Thursday, December 24, 2009

Division Five

A124822 – The People, v. Khalif Robinson.

The judgment is affirmed. Jones, P.J., We Concur: Needham, J., Bruiniers, J. (Not for Publication.)

Monday, December 28, 2009

Division One

A122229 – The People, v. Michael Craig Barnette.

The judgment of the trial court is affirmed. Margulies, J., We Concur: Marchiano, P.J., Dondero, J. (Not for Publication.)

Monday, December 28, 2009(Continued)

Division Two

A124697 – The People, v. Michael Lewis Fouts.

The judgment is reversed and the matter is remanded for the sole purpose of allowing the trial court to order the preparation of and consider a current probation report, and to resentence defendant if appropriate. Richman, J., We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

A123171 – The People, v. Colin James Abberton.

The judgment is affirmed. Haerle, J., We Concur: Kline, P.J., Richman, J. (Not for Publication.)

A126099 – The People, v. David Moreno.

The judgment is affirmed. Haerle, Acting P.J., We Concur: Lambden, J., Richman, J. (Not for Publication.)

Division Three

A124184 – The People, v. Gabriel Herrera.

The judgment is affirmed. McGuiness, P.J., We Concur: Siggins, J., Jenkins, J. (Not for Publication.)

A124549 – In re S.W., a Person Coming Under the Juvenile Court law. Solano County Health & Social Services Department, v. A.D.

The order filed April 9, 2009 is affirmed. The appeals from the orders filed on January 6, 2009, February 26, 2009, March 4, 2009, and the two orders filed on April 6, 2009, are dismissed. McGuiness, P.J., We Concur: Pollak, J., Siggins, J. (Not for Publication.)

Division Four

A125023 – In re Juan G., a Person Coming Under the Juvenile Court Law. The People, v. Juan G.

The dispositional order is affirmed. Sepulveda, J., We Concur: Ruvalo, P.J., Reardon, J. (Not for Publication.)

.

A123946 – The People, v. Parasto Sedigh Farasati.

The order is affirmed. Sepulveda, J., We Concur: Ruvalo, P.J., Reardon, J. (Not for Publication.)

Monday, December 28, 2009(Continued)

A124237 – In re Joseph B., a Person Coming Under the Juvenile Court Law. The People, v. Joseph B.

The orders declaring the minor to continue as a ward of the court and for out-of-home placement are affirmed. Sepulveda, J., We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

Division Five

A123992 – In re Michele R., a Person Coming Under the Juvenile Court Law. Contra Costa County Children & Family Services Bureau., v. M.P.

The order terminating the juvenile court's jurisdiction is affirmed. Needham, J., We Concur: Simons, Acting P.J., Bruiniers, J. (Not for Publication.)

Tuesday, December 29, 2009

Division One

A125527 – In re D.J., a Person Coming Under the Juvenile Court Law. The People, v. D.J.

The probation condition is modified to read as stated immediately above. With that modification, the jurisdictional and dispositional findings and orders are affirmed. Marchiano, P.J., We Concur: Dondero, J., Banke, J. (Not for Publication.)

A122641 – Everest Properties II, et al., v. Sanford N. Diller.

The judgment of the trial court is affirmed. Margulies, J., We Concur: Marchiano, P.J., Dondero, J. (Not for Publication.)

Division Two

A124843 – In re Zakari N. et al., Person Coming Under the Juvenile Court Law. San Francisco Human Services Agency, v. Sharonda J.

The order is affirmed. Lambden, J., We Concur: Haerle, Acting P.J., Richman, J. (Not for Publication.)

Division Three

A123672 – Richmond Residents for Responsible Antenna Placement et al., v. City of Richmond, Omnipoint Communications et al., R.P.I.

Tuesday, December 29, 2009(Continued)

The judgment is affirmed. Siggins, J., We Concur: Pollak, Acting P.J., Jenkins, J. (Not for Publication.)

Division Three

A121255 – The People, v. David Busio Lopez.

The judgment is affirmed. McGuiness, P.J., We Concur: Siggins, J., Jenkins, J. (Not for Publication.)

Division Five

A122128 – Omid Beheshti, v. Daniel Robert Bartley.

The order of the trial court granting the special motion to strike is affirmed. Defendant Bartley is entitled to recover his costs and fees on appeal. Needham, J., We Concur: Jones, P.J., Simons, J. (Not for Publication.)

A122969 – The People, v. Sharon Lee Fawcett.

The judgment is affirmed. Jones, P.J., We Concur: Simons, J., Needham, J. (Not for Publication.)

Wednesday, December 30, 2009

Division One

A123081 – Steve Poizner, as Insurance Commissioner, etc., v. Golden Eagle Insurance Co., Fred Carter et al.

The judgment of the trial court is affirmed. Margulies, Acting P.J., We Concur: Dondero, J., Banke, J. (Not for Publication.)

Division Two

A125468 – Marlon Estacio Pagtakhan, v. Black Pants, Inc.

A125470 – Marlon Estacio Pagtakhan, v. Chuck Witt.

The orders of dismissal are affirmed. Richman, J., We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A125207 – In re T.B., a Person Coming Under the Juvenile Court Law. San Francisco Human Services Agency, v. J.B.

Wednesday, December 30, 2009(Continued)

Division Two

A125207 – In re T.B., a Person Coming Under the Juvenile Court Law. San Francisco Human Services Agency, v. J.B.

The “Custody Order – Juvenile - Final Judgment” entered by the juvenile court is affirmed. Richman, J., We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

A105981 – John T. Kendall, as Trustee in Bankruptcy, etc.; Maria E. Luckenbach, v. Paull C. Walker et al.

The judgment is affirmed. Plaintiffs are entitled to their costs on appeal. Kline, P.J., We Concur: Lambden, J., Richman, J. (Not for Publication.)

Division Three

A123125 – The People, v. Christopher Raynard Griffin.

The judgment is affirmed. Siggins, J., We Concur: McGuiness, P.J., Jenkins, J.
(Not for Publication.)

Division Four

A122196 – The People, v. Jamal Tyrone Everett.

The judgment is affirmed. Ruvolo, P.J., We Concur: Sepulveda, J., Rivera, J.
(Not for Publication.)

Division Five

A123589 – The People, v. Kalolo Tausing.

The judgment is affirmed. Jones, P.J., We Concur: Simons, J., Bruiniers, J. (Not
for Publication.)

**A124779 – In re S.B., a Person Coming Under the Juvenile Court Law. The
People v. S.B.**

The orders are affirmed. Needham, J., We Concur: Jones, P.J., Simons, J. (Not
for Publication.)

A121332 – The People, v. Marquez B. Briggs.

The judgment is affirmed. Bruiniers, J., We Concur: Simons, Acting P.J.,
Needham, J. (Not for Publication.)

Thursday, December 31, 2009

Division One

A123281 – The People, v. Holly Marie Ellis.

The judgment of the trial court is affirmed. Margulies, Acting P.J., We Concur:
Dondero, J., Banke, J. (Not for Publication.)

A123629 – Lila Bennett et al., v. Lake County Board of Supervisors.

We independently agree with the trial court's decision and affirm the judgment.
Marchiano, P.J., We Concur: Margulies, J., Banke, J. (Not for Publication.)

Division Three

A121969 – The People, v. John Alan Gillies.

A126585 – In re John Alan Gillies on Habeas Corpus.

The judgment is affirmed and the petition for writ of habeas corpus is summarily denied. McGuiness, P.J., We Concur: Pollak, J., Siggins, J. (Not for Publication.)

A119918 – Town of Tiburon et al., v. Jimmie D. Bonander et al.

The judgment is reversed and the matter is remanded to the trial court with directions to enter a new judgment granting appellants' petition for writ of mandate. The trial court shall issue a writ vacating the Town of Tiburon's Resolution No. 24-2006 and invalidating the assessments imposed by the Del Mar Valley Utility Undergrounding Supplemental Assessment District. Appellants shall recover their costs on appeal. McGuiness, P.J., We Concur: Siggins, J., Jenkins, J. (Certified for Publication.)

A124354 – The People, v. Wesley David Brown.

The order denying appellant's motion to suppress evidence is affirmed. Jenkins, J., We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

Division Four

A123327 – Steven Marlowe, v. Department of Motor Vehicles.

The judgment is affirmed. Rivera, J., We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

A118043 – Michael L. Hipp, v. State Farm Mutual Automobile Insurance Company.

Thursday, December 31, 2009(Continued)

The judgment is affirmed. Rivera, J., We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

A124103 – The People, v. Frankie Alberto Arellano.

The judgment is affirmed. Rivera, J., We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

A121611 – Raman D. Patel et al., v. Jakela, Inc., et al.

The order is affirmed. The matter is remanded to the trial court of a determination of the amount of attorney fees and costs to be awarded on appeal. Rivera, J., We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

A125899 – The People, v. Dean William Hart.

The judgment is affirmed. Rivera, J., We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

A124205 – The People, v. Steven Lynn McHugh.

The judgment is affirmed. Sepulveda, J., We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

Division Five

A124315 – The People, v. Timothy Hans Freeman.

In all other respects, the judgment is affirmed. Jones, P.J., We Concur: Needham, J., Bruiniers, J. (Not for Publication.)

A122765, A122768 – Cell phone Termination Fee Cases.

The trial court's judgment is affirmed. All parties shall bear their own costs on appeal. Simons, J., We Concur: Jones, P.J., Needham, J. (Certified for Partial Publication.)